

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No.5718 of 2001

Dated: 07th November, 2005

Between:

Smt. M.C.Adilakshamma, W/o.Late M.C.RamachandraReddy,
R/o.Muthukuru Village and Post, Cuddapah District.

..... PETITIONER

AND

1. Union of India, rep. by Ministry of Home Department of
Jammu and Kashmir Affairs, North Block, New Delhi
and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition No. 5718 of 2001

ORDER:

This writ petition has been filed by Smt.M.C. Adilakshamma with a prayer to issue an order or direction particularly one in the nature of writ of Mandamus declaring the action of the Chief Secretary, Government of Jammu and Kashmir, Srinagar (India) and the Director General of Police, Jammu and Kashmir, Srinagar-Respondents 2 and 3 in not sanctioning *ex gratia* for the death of her husband-M.C.Ramachandra Reddy in the election duty on 12.06.1996 as illegal and arbitrary.

2. M.C.Ramachandra Reddy, the husband of the petitioner was working as Inspector in 31st Battalion C.R.P.F., M.P.T.S. Campus, Panghi, Imphal, under the control of the Commandant, 31st Battalion, CRPF, MPTS Campus, Panghi,

Imphal-6th respondent. While so, in connection with general elections in the State of Jammu and Kashmir, the Government of India decided to deploy the employees working in other States to complete the election process peacefully. In pursuance of the orders of the 1st respondent, 6 Coys of 31st Battalion CRPF including E/31st Battalion CRPF personnel were deployed in Jammu and Kashmir with effect from 03.05.1996 to 14.06.1996. While the CRPF personnel were camping at Samilpur transit camp, the husband of the petitioner was shot dead on 12.06.1996. The Government of India, Department of Jammu and Kashmir, North Block, New Delhi, issued proceedings No.13015/31/94-K(DO-1) VOL-1, dated 10.04.1996 under which the President of India has sanctioned certain incentives to the polling personnel deployed in Jammu and Kashmir by the Central Government for conducting the general elections. Under clause (2) of the said proceedings *ex gratia* relief of Rs.5.00 lakhs to be paid in case of demise of an Officer or Official on duty; In addition to other benefits which the concerned State Government shall provide. The petitioner made a claim to the Central Government for release of *ex gratia* as her husband died while he was on election duty. When her claim came to be turned down, she approached this Court by filing Writ Petition No.12406 of 1997. The said writ petition came to be allowed on 01.09.1999. The relevant portion of the order needs to be noted and it is thus:

“11. In all the above decisions the issue was a claim for compensation under the Workmen Compensation Act and the Interpretation was relating to terms in the course of employment. One peculiar fact in all these cases is that the persons, who died or met with an accident, are the persons staying outside the factory premises i.e., place of employment and the interpretation was with reference to the act when they were on their way to the employment. No doubt the decisions relied upon by the petitioner supports her contention though in those decisions the distance between the place of employment and the place of accident was not very clear except in the case decided by the Bombay High Court where the accident took place very close to the place of employment. But the Supreme Court also considered the similar case as was considered by other High Courts and it was held where an accident took place one kilometer away from the place of employment it was held that it was not in the course of employment. But in the present case, the facts are totally different. Here the petitioner's husband along with other employees was deployed from the original place of employment to a new place and they were supposed to be continuous on duty there, from 03.05.1996 to 14.06.1996 and the incident took place on 12.06.1996 i.e. before the end of the period for which they were deployed. Though, the respondents

contended that the husband of the petitioner was not actually on election duty, it could not be considered that the husband of the petitioner was not on duty. The reason for it is but for his employment and duties he would not have been stayed in the transit camp in the State of Jammu and Kashmir. Further, the entire CRPF personnel relating to the 31 Bn. are deployed for the purpose of maintaining law and order in connection with the conducting of the elections.

12. Under the above circumstances I hold that the petitioner is entitled for the relief prayed in terms of the letter issued by the 1st Respondent. Accordingly, the impugned order is set aside and the respondents are directed to pay the *ex gratia* as provided in the letter dated 10.04.1996.”

The petitioner submitted representation to the Director General of Police, Jammu and Kashmir, Srinagar-3rd respondent, for payment of *ex gratia* as per the Circular issued by the Government of Jammu and Kashmir, General Administration Department. Her request came to be turned down by the Director General of Police, Jammu and Kashmir, Srinagar-3rd respondent. The decision of the 3rd respondent came to be communicated to the petitioner through the office of the Deputy Inspector General of Police, CRPF, Khatikhati (Assam)-5th respondent under letter No.P-III-16/96-Pen-31, dated 03.02.2001. The said letter reads as follows:

“EX GRATIA COMPENSATION FROM J & K GOVT.

Please refer to your application dated Nil and IGP, NES, CRPF letter No.P-III.4/2000-Adm-I 9NES) dated 5/1/2001.

2. It is to inform you that your case for sanction of *Ex-Gratia* compensation of Rs.2 lacks from the J&K State was taken up with the DGP, J & K. The DGP, J&K in turn vide his letter No.AIG(W)/EGR-69/2000-68932 dated 29/12/2000 has intimated that NOK's of those personnel who are killed as a result of violence attributable to the breach of law and order or any other form of civil commotion are entitled for *Ex-Gratia* relief. Since late Insp.M.C.R.C.Reddy was shot dead by Ct.Laxman Dass of 31 Bn. CRPF and not as a result of actual violence or by ANE's as such ex-gratia relief of Rs.2.00 lacs from J & K Govt. is not permissible in this case.”

Assailing the said order of rejection, the petitioner has chosen to approach this

Court by invoking jurisdiction under Article 226 of the Constitution of India seeking the relief stated supra.

3. Despite notice being served on the respondents 2 and 3, they did not choose to contest the writ petition. Respondents 4, 5 and 6 filed counter affidavit. Paras.8 and 9 of the counter affidavit need to be noted and they are:

“8. In reply to para. 4 of the affidavit the contents of petitioner are vehemently denied as the petitioner is not entitled to Rs.2 lakhs *ex gratia* relief as he was killed by own CRPF Constable while he was sleeping in his bed at Samilpur (Jammu) after completion of Election in J & K. As per Govt. of India, Deptt. of J & K Affairs letter No.13015/31/94-K(DO-I) Vol.I, dated 4.10.1996 only polling personnel are entitled for incentives of Rs.2 lakhs as *Ex gratia* relief but late Insp.M.C.R.C.Reddy was neither on duty nor detailed as polling personnel at the time of killing.

9. That the contents of para No.5 are admitted to the extent that late Insp.M.C.R.C.Reddy husband of the petitioner was posted in 31st Bn. CPRF, Chandigarh. Due to assembly election in Jammu and Kashmir six coys of 31st Bn. CRPF, including E/31st Bn. were deployed in J & K with effect from 03.05.96 to 14.06.96 and E/31st Bn. CRPF was commanded by late Insp.M.C.R.C.Reddy. After completion of Election in J & K all these six coys were de-inducted and concentrated at Bari Brahamana and coming at Smaipur transit camp with effect from 1.6.96 to 14.6.96. Insp. M.C.R.C.Reddy was shot dead by No.901170787 Ct.Laxman Das of 31st Bn. on 12.6.96 while he was sleeping in his bed and he was not on Election duty.”

4. Heard learned counsel appearing for the petitioner and learned Additional Central Government Standing Counsel appearing on behalf of R.4, R.5 and R.6.

5. Learned counsel appearing for the petitioner submits that when the Central Government rejected the payment of *ex gratia* on the ground that the death of Insp.M.C.R.C.Reddy can not be treated as death while on election duty, the petitioner filed W.P.No.12406 of 1997 and the said writ petition came to be allowed on 01.09.1999 and therefore, there cannot be any justification for the 3rd respondent in not releasing the *ex gratia* on the self same ground.

6. The question whether the death of the husband of the petitioner can be termed as death during performance of election duties came up for consideration in W.P.No.12406 of 1997 and this Court by order dated 01.09.1999 held that the death of the husband of the petitioner is to be considered in consequence of due performance of election duties. In that view of the matter, there cannot be other interpretation with regard to *ex gratia* scheme announced by the Government of Jammu and Kashmir. The copy of the said scheme has been placed on record. As per the scheme introduced by the Government of Jammu and Kashmir, *ex gratia* payment in case of death is Rs.1.25 lakhs. I deem it appropriate to refer the relevant portion of the Order No.723-GR(GAD) of 1990, dated 10.07.1990, and it reads as follows:

(b) Personnel of para-military forces:

i) For death ... Rs.1.25 lakhs

ii) For permanent disability ... Rs.0.25 lakhs

iii) For partial disability ... Rs.0.10 lakhs

Note-1: *Ex gratia* relief shall be admissible in respect of only those who are killed or are disabled, in or in consequence of due performance of official duties.

Note-2: *Ex gratia* relief shall be sanctioned by the Government in the Home Department.

Note-3: Payment to the beneficiary shall be made through the Commandant of the local formation of concerned Para-Military force.

Note-4: The procedure for grant of payment of *ex gratia* relief shall, *mutatis mutandis*, be the same as prescribed for grant of *ex gratia* relief to other State Government Servants in terms of Art.249-M (A) of the J&K Civil Service Regulations as amended vide SRO-570 dated 10.09.1986.

In view of the above circular, the entitlement of the petitioner can be Rs.1.25 lakhs.

7. In the result, the writ petition is allowed directing the respondents 2 and 3 to consider the claim of the petitioner for grant of *ex gratia* of Rs.1.25 lakhs as per the Order No.723-GR(GAD) of 1990, dated 10.07.1990 and pass appropriate orders within two months from the date of receipt of a copy of the order. No costs.

B.SESHASAYANA REDDY, J.

Dated: 07th November, 2005.

Note:

Issue C.C. within a week.

B/O

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